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C O N F I D E N T I A L SECTION 01 OF 02 DAR ES SALAAM 000540

SIPDIS

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SUBJECT: ICTR REGISTRAR BRIEFS DIPLOMATS

Classified by Charge d'Affaires Michael S. Owen for reason 1.4 (d).

11. (C) Summary: ICTR Registrar Adama Dieng on February 25 briefed a small group of Dar es Salaam diplomats on current progress of the ICTR. Dieng was upbeat on the probability of the court meeting its completion deadline of 2008, though he said full funding was crucial. By the end of 2005 all investigations would be complete, he said, and predicted that 2006 would begin to see some significant reductions in costs. He outlined progress in containing defense counsel costs, noting that a lump sum payment system was now in place. A fourth courtroom, funding by the UK and Norway, opened on March 1. Cooperation with the Government of Rwanda remains problematic, and he said possible indictment of some RPF personnel is a "huge shadow" looming over the court. Dieng raised an unanticipated problem of what to do with acquitted persons, saying "they have no place to go." End summary.

12. (U) ICTR registrar Dieng briefed a small group of Dar es Salaam Chiefs of Mission who met at the invitation of the UK High Commissioner. Present were the Canadian High Commissioner, French Ambassador, German Ambassador, Dutch Ambassador, Norwegian Ambassador, and Charge. This group had first met in December and agreed to form a "Friends of the ICTR" informal grouping to stay abreast of ICTR developments, and engage with the ICTR on issues of mutual interest. The February 25 briefing was the first formal meeting of this group. The Belgian Ambassador is also a member of the group, but was unable to attend the briefing.

13. (C) Dieng was decidedly upbeat on the ICTR's progress, citing numerous examples of improved administrative procedures and cost savings. Because of an improved financial position, the ICTR's recruitment freeze had been lifted January 7, and several key vacancies had now been filled, he said. A move to less cumbersome biennial budgeting had helped to streamline budgeting procedures, he noted, and monitoring of costs had been significantly improved. The court was now making more advantageous use of interns and legal researchers, and was also utilizing information technology more effectively. Despite tough opposition from attorneys, a system of lump sum payments to defense counsels had now been implemented for all new cases, and this would reduce costs very substantially from the previous open-ended system. Although the total number of cases is still increasing, Dieng said the cost per case should begin to drop significantly by the end of 2005 and into 2006.

14. (C) Dieng reported that the Governments of Norway and the UK had each contributed USD 120,000 toward the construction of a fourth courtroom, which would be a tremendous help in speeding completion of cases. He noted that opening this additional courtroom, along with the end of the hiring freeze, had been a major morale booster among ICTR professional staff. This additional courtroom was subsequently inaugurated on the morning of March 1, and the opening proceedings of a new case were heard in the courtroom on that same afternoon.

15. (C) Dieng voiced considerable optimism that the court would conclude its work within the timetable established by the completion strategy. He said all investigations would be complete by the end of 2005, and that all indictments would also be filed by year's end. Dieng said the prosecutor would increasingly focus attention on ensuring the trial readiness of the cases of the remaining indictees, and that apprehension of indictees still at large will also be a top priority. Dieng said all cases should be completed on schedule by the end of 2008, although he hedged this prediction by saying that "new shortfalls in funding" could complicate the court's work.

16. (C) Asked about ICTR cooperation with the Government of Rwanda, Dieng said there are still many problems, but there had been "improvements" recently, and that there is an "open and continuous dialogue." He expressed appreciation for Belgian assistance in training Rwandan legal researchers in preparation for the eventual transfer of cases to Rwanda after 2008. The ICTR is also looking for possible sources of funding for capacity building for the Rwandan legal system to ensure a smooth transfer of

cases. Dieng said the ICTR has negotiated and is ready to sign an agreement with the GOT on enforcement of sentences.

17. (C) Dieng said the possible indictment of RPF officers is a "huge shadow" looming over the court, and said Kagame would not cooperate with the court in any way on this issue. He asked rhetorically "How could the ICTR close its doors without indictment of at least some RPF officers?" This issue impacts the entire credibility of the ICTR, he said, but would it be possible to indict anyone without effectively reaching Kagame? Dieng said there are several cases under investigation in which indictment of an RPF officer seems very possible, but what would happen if an indictment was filed? The GOR would be very unlikely to cooperate, he said, and this could seriously impact other operations of the court and the eventual transfer of cases to Rwanda. Dieng reiterated the complexity of this issue, and the importance of not damaging the credibility of the ICTR.

18. (C) Dieng also raised the unanticipated problem of how to deal with accused persons who are acquitted by the court. This issue is not mentioned in the statutes creating the ICTR, he said, suggesting that this was not envisioned as a possibility. To date three such accused have been acquitted by the court; one has been granted asylum in France, but the other two are currently staying in safe houses in Arusha, at the expense of the ICTR. Terming this "an ethical issue," Dieng said that no states have volunteered to accept these two (with their families), and that sending them back to Rwanda would be "tantamount to a death sentence." French Ambassador d'Achon said that France had accepted the one acquitted person "under duress" and that it was highly unlikely France would ever accept other acquitted persons. Dieng said the ICTR had also approached the Government of Belgium about providing asylum, but had been turned down. Dieng requested support in finding an equitable solution to this problem, as quickly as possible in light of the continued expense of housing the acquitted persons.

19. (C) Comment: Dieng's presentation was highly professional and well received by the Friends Group. Our impression is that the ICTR's effectiveness is steadily improving, and the addition of the fourth courtroom will significantly boost the court's ability to reach its completion strategy goals. The potential indictment of an RPF officer will be a huge issue, and with indictments scheduled to conclude by the end of 2005, is likely to arise soon. End comment.

OWEN